

ROCKEY, Don C.
Appl. No. 10/611,432
June 28, 2006

REMARKS/ARGUMENTS

Reconsideration of this application and entry of the amendments are respectfully requested.

The specification has been amended to update the status of the priority information.

Claim 1 has been revised to include the limitation of now cancelled claim 2 and so as to recite intravenous administration. Support for intravenous administration is found at page 12, last paragraph. Claim 7 has been revised in view of the revision of claim 1.

Claims 1 and 3-7 stand rejected under 35 USC 112, first paragraph, as allegedly lacking written description. Withdrawal of the rejection is submitted to be in order in view of the revision of claim 1 to include the limitation of claim 2, which is not subject to the rejection.

Reconsideration is requested.

Claims 1-6 stand rejected under 35 USC 112, first paragraph, as allegedly being non-enabled. Withdrawal of the rejection is submitted to be in order in view of the revision of claim 1 to recite intravenous administration, and further in view of the fact that claim 7, which recites administration via the femoral vein, is not included in the rejection.

Reconsideration is requested.

Claims 1-7 stand rejected under 35 USC 102(a) as allegedly being anticipated by Yu et al. This publication is Applicant's own and is within a year of the filing date of the application from which this case claims priority. A Declaration will be submitted shortly which removes this document as a reference. Upon submission of that Declaration, withdrawal of the rejection will be in order.

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Claims 1 and 3-6 stand rejected under 35 USC 102(b) as allegedly being anticipated by Fevery et al. Withdrawal of the rejection is in order in view of the revision of claim 1 to include the limitation of claim 2, which is not subject to the rejection. Reconsideration is requested.

Claims 1 and 2 stand rejected under 35 USC 103(a) as allegedly being obvious over Fevery taken with Channon et al or Yu et al. Withdrawal of the rejection is submitted to be in order for the reasons that follow.

At the outset, Yu et al will be removed as a reference upon submission of the above-referenced Declaration.

Fevery et al relates to cENOS, not nNOS as required by the present claims. Channon et al makes reference (on page 970, right column) to the potential utility of nNOS gene transfer in connection with diseases "such as neuronal degeneration, myocardial injury and atherosclerosis". Channon et al makes no reference to portal hypertension, the subject of the present claims.

The Examiner provides no explanation as to where in the citations motivation can be found for making the combination. Rather, the Examiner merely contends that it would have been "a matter of designer's choice" to combine the teachings of Fevery et al with those of Channon et al. Insufficient support is provided for this assertion.

The Examiner is urged to reconsider the rejection, particularly in view of the advantages of nNOS in ameliorating portal hypertension, shown in the publication of Yu et al submitted herewith. Having done so, it is believed that the Examiner will find withdrawal of the rejection to be in order.

Claims 1 and 7 stands rejected under 35 USC 103 as allegedly being obvious over Fevery et al in view of Freidman et al or Yu et al. Withdrawal of the rejection is submitted to be in

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order in view of the revision of claim 1 to include the limitation of claim 2, which is not subject to the rejection. Reconsideration is requested.

Claims 1 and 3-6 stand rejected under 35 USC 103 as allegedly being obvious over Varenne et al in view of Fevery et al. Withdrawal of the rejection is submitted to be in order in view of the revision of claim 1 to include the limitation of claim 2, which is not subject to the rejection. Reconsideration is requested.

This application is submitted to be in condition for allowance and a Notice to that effect is requested.

Respectfully submitted,

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